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Office Action Dated: July 23, 2010

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Stephen A. Ewald

Confirmation No.: 6111

Application No.: 10/672,133

Group Art Unit: 3625

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Examiner: Mark A. Fadsk

For: **SYSTEM AND METHOD FOR PURCHASING LINKED BROADCAST
MEDIA**

FOR DISCUSSION DURING INTERVIEW. PLEASE INCLUDE IN THE INTERVIEW SUMMARY.**Courtesy Listing of Claim:**

I. (Previously presented) A system for purchasing goods and services linked with broadcast media, comprising:

one or more broadcast radio receivers configured to receive in-band broadcast radio media and determine, based on the media, information relating to goods and services that can be purchased by persons receiving the media, each receiver further configured to selectively receive a purchase request and record the purchase data for goods and services that a person purchases relating to the broadcast media, wherein the information can be determined when the broadcast radio media does not include explicit information pertaining to purchase of the goods and services; and

one or more servers configured to selectively receive and verify purchase data sent from the one or more receivers wherein the purchase data containing information that upon verification at the one or more servers, the purchase accomplishable without further interaction from the person;

wherein upon verification of the purchase data, the purchased goods and services are directly downloaded to the broadcast radio receiver.

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2. (Previously presented) The system of claim 1, wherein each broadcast radio receiver is in communication with a server.
3. (Previously presented) The system of claim 1, wherein each broadcast radio receiver is configured to store the purchase data and transmit the stored purchase data at a predetermined location.
- 4-6. (Canceled).
7. (Previously presented) The system of claim 1, wherein each broadcast radio receiver is a single device.
8. (Previously presented) The system of claim 1, wherein each broadcast radio receiver is comprised of at least two devices, to include a broadcast media receiver and a purchase selection device.
9. (Previously presented) A broadcast radio receiver for purchasing goods and services linked with broadcast media, the broadcast radio receiver configured to receive in-band broadcast media and determine, based on the media, information relating to goods and services that can be purchased by persons receiving the media, the broadcast radio receiver further configured to selectively receive a purchase request and record the purchase data for goods and services that a person purchases linked with the broadcast media and selectively transmit the purchase data to another computer device, wherein the purchase data containing information that upon verification, the purchase accomplishable without further interaction from the person; and wherein the broadcast radio receiver receiving a direct download of said purchased goods and services upon verification of the purchase, and wherein the information can be determined when the broadcast radio media does not include explicit information pertaining to purchase of the goods and services.

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10. (Previously presented) The broadcast radio receiver of claim 9, further comprising a purchase selection indicator.

11. (Previously presented) The broadcast radio receiver of claim 9, wherein the broadcast receiver is further configured to the purchase data and transmit the stored data to a predetermined location.

12. (Previously presented) A method for facilitating the purchasing purchase of goods and services linked with broadcast media, comprising:

- receiving at a broadcast radio receiver in-band broadcast media and determining, by the broadcast radio receiver and based on the media, information relating to goods and services that can be purchased, wherein the information can be determined when the broadcast media does not include explicit information pertaining to purchase of the goods and services;

- receiving at the broadcast radio receiver a purchase request;

- selectively recording purchase data at the broadcast radio receiver for a good or service associated with the purchase request;

- sending, by the broadcast radio receiver, the purchase data to at least one server;

- receiving the purchase data at the at least one server; and

- verifying the purchase data from the broadcast radio receiver at the least one server,

- wherein the purchase data containing information that upon verification at the at least one server, the purchase is accomplishable without further interaction from the person receiver.

13. (Previously presented) The method of claim 12, wherein:

- the step of sending the purchase data is sending the purchase data to a plurality of servers;

and

- further comprising the step of storing the purchase data of one of the servers; and

- wherein the step of verifying the purchase data occurs at a different server.

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14. (Previously presented) The method of claim 12, wherein the step of sending the purchase data is sending the purchase data from the broadcast radio receiver to the server via a secure communication channel.

15. (Previously presented) The method of claim 12, further comprising the steps of:
storing the purchase data at the broadcast receiver; and
transmitting the stored data from the broadcast radio receiver to the server when the broadcast radio receiver is at a predetermined location.

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16. (Previously presented) The method of claim 12, further comprising the steps of:
storing the purchase data at the broadcast radio receiver; and
transmitting the stored data from the broadcast radio receiver to the server at a
predetermined period of time.
- 17-19. (Canceled).
20. (Previously presented) The system of claim 8, wherein the at least two devices are
separate.
21. (Previously presented) The system of claim 1, wherein the purchased goods and services
are at least one song.
22. (Previously presented) The method of claim 12, wherein upon verification of the
purchase, at least one song being directly downloaded to the broadcast radio receiver.

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REMARKS

With regard to independent claims 1, 9 and 13, each of these claims recites the important aspect of receiving media and determining, based on the media, information relating to goods and services that can be purchased by persons receiving the media, wherein the information can be determined *when the broadcast radio media does not include explicit information pertaining to purchase of the goods and services*. Thus, as indicated in paragraph [0025] of Applicant's specification, "if the broadcast media is a radio broadcast, each song does not have to include an advertisement of its identity or even state that it is available for purchase to the user of the broadcast receiver 14."

Furthermore, as stated in paragraph [0022], the broadcast receiver can include logic to gather data from other components, and the channel and time within the purchase data can be looked up at the server 32 to determine the identification of the good or service desired purchased. Finally, as indicated in paragraph [0023], if the purchase data is not immediately transmitted from the broadcast receiver when created, it can be stored in memory and transmitted through at a predetermined location or time.

All of the above embodiments are encompassed in a flexible system for purchasing goods whether or not the broadcast media provides purchase or even identification information. None of the cited references teach Applicant's claimed invention. In fact, all of the cited references teach the acquisition of an identifier of the song or other content prior to purchase, i.e. *explicit information* pertaining to the purchase of the good or service.

For example, it is clear that the system of Christensen includes specific information pertaining to the purchase of the media in the broadcast stream. See, for example:

- col. 4:64-65: "radio text information or messages displaying purchase options"
- col. 4: 67-col.5: 1: "instructions for the location of downloadable audio"
- col. 5: 5-8: "a location where the song, editorial news broadcast, collection of songs, or other program material can be downloaded or purchased, and the purchase price for the song"
- col. 6: 7-14: "the APS server 144 incorporates station call letter information, and an audio download location such as IP address and a file name into a data stream"

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that is inserted into a radio station's broadcast using RBDs/RDS or similar technology"

In our response dated July 23, 2010, we argued that Kesting paragraphs [0068], [0055] and [0060] is not relevant to Applicant's claims. Kesting paragraph [0055] states:

If the listener is driving a car, however, it may be hazardous to write something down on paper. To avoid such dangerous activity, the listener may instead press select button 1220 when content of interest is played on radio 20. The program identifier (at least) associated with that content is then stored in non-removable memory 500. When the listener has stopped driving, he may then scroll through the program identifiers (along with any other related information listed in the table of FIG. 6) using scroll button 1230. He can then write down the program identifier that are still of interest to him

(emphasis added). This paragraph merely states that a listener can manually retrieve a program identifier for a particular content item at a future time.

Kesting paragraph [0060] states:

Employing a physical media link 1140 such as a flash memory card simplifies the transferring of program identifiers from radio 20 to computer 1150 or kiosk 1180. In this case, every time a listener presses select button 1220, the program identifier associated with the content being played at that time is stored on media link 1140. Media link 1140 is then, as described previously, taken to a reader, which is preferably connected to computer 1150 or associated with kiosk 1180, and the information stored thereon is downloaded so that the user may proceed with purchase of a product, obtain further information or provide feedback regarding the content that was broadcast

(emphasis added). Here, Kesting merely discloses that the program identifier may be stored on a media device for subsequent processing.

Kesting paragraph [0008], according to the Examiner, is cited only to show that a display is optional (Office Action, page 4).

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None of these passages teach or suggest receiving in-band broadcast radio media and determining, based on the media, information relating to goods and services that can be purchased by persons receiving the media, wherein the information can be determined when the broadcast radio media does not include explicit information pertaining to purchase of the goods and services, as recited in Applicant's claims. Moreover, the teachings of these references are clearly against creating this element.

Kesling teaches that:

a studio/uplink site digitally encodes selections of music and/or information and applies a header that includes the program identifier (PID) that uniquely identifies each selection. The program identifier may uniquely identify a selection of music, an advertisement, merchandise associated with an advertisement, or a response or reaction to something that is transmitted to a radio receiver, including both audio, text and/or other visual information

(emphasis added, see Kesling paragraph [0017]). Thus a unique identifier is an important aspect of the system of Kesling, which the present Office Action does not address.

In the Advisory Action dated October 12, the Examiner states that the motivation for combining the references is found in Kesling to incorporate an order system where the information does not need to be read by the driver thus reducing the inconvenience of the service and preventing accidents thus saving the customer time and increasing the safety of the products usage for the listener. In response, Applicant submits that such a motivation does not lead to Applicant's claimed invention because, in order to reduce such inconvenience, one would be motivated to include such explicit information in the broadcast stream in order to minimize such inconvenience.

The Examiner also notes that applicant's specification para 0025 notes that "As long as the broadcast media includes identification data such that the broadcast receiver can identify the goods or services to be purchased, the person can simply indicate a desire to purchase. ...". However, applicant's paragraph [0022] states "the broadcast receiver 14 can include logic to gather data from other components, such as the specific broadcast receiver 46 as to the channel currently being monitored, and if the time is also recorded, the relay of the channel and time

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within the purchase data can be looked up at the server, 32 to determine the identification of the good or service desired purchased" (emphasis added). Thus applicant's claim is not as limited as the examiner states because the purchase data can be determined under any of these scenarios:

- the media includes explicit purchase information
- the media includes only program data
- the media does not include any such data;

Applicant submits that none of the references, alone or in combination, teaches such a system.

During one of our follow-up discussions, the Examiner stated that Kesting paragraph [0008], which discusses the Patsiokas reference, discloses an aspect of Applicant's claims. The paragraph is reproduced here for convenience.

[0008] Patsiokas describes a system for distributing music and content in which music or data is first transmitted to a consumer via a wireless network. In a specific illustrative embodiment, the wireless network is a satellite and terrestrial radio network. The user is provided with a receiver (i.e., a radio) which is capable of receiving the wireless transmission and providing an audio and/or visual output in response thereto. In addition, the receiver is adapted to receive an input from the user by which the user is able to signal an interest in purchasing a selection of music or data being played and/or displayed. In the illustrative embodiment, in response to this signal from the user and a recordability flag transmitted in response to input from a content provider, a program identifier (or "PID") signal, which identifies the selection being played and/or displayed, is stored on a removable media. In the specific illustrative embodiment, the removable media is electronic (flash) memory. The PID signal may be a composite signal indicating the time at which and channel on which the selection was playing, a signal that identifies a selection by number, or other suitable signal. The receiver or the user's home computer may be used to display the title, artist and/or other information based on the user's selections.

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As can be seen from the passage, a program identifier "PID" signal is stored on a removable media in response to a signal. Again, this discloses an identifier that part of the broadcast media. Such an identifier, as explained above, is not necessary in Applicant's claim.